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[REDACTED] EXAMINER

HO, THOMAS Y

[REDACTED] ART UNIT

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3677

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary

Application No.

09/900,432

Applicant(s)

TAGA, SHIGENORI

Examiner

Thomas Y Ho

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*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____ .

DETAILED ACTION***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimada USPN5443292.

As to claim 1, Shimada discloses:

- A striker 45 provided in a peripheral edge portion of a trunk opening 11.
- A latch 17 provided in a trunk lid 10.
- A drive mechanism having a lock canceling member 60.
- A support base 20 fixed to an inner panel of the peripheral edge portion of the trunk opening.
- The lock canceling member being supported by a shaft 21 (Fig.1) in the support base.
- The drive mechanism being operative when the latch 17 is engaged with the striker 45 so as to bring in a second member including the latch 17 via a first member including the striker 45 moving to a bring-in position from a waiting position, thereby closing the trunk lid 10 (col.6, ln.47-68; col.7, ln.1-9, ln.28-35).
- The lock canceling member 60 being operative to move to a restricting position at which the latch 17 is under a restricting state that the latch can not be taken out from the striker (col.7, ln.57-63), and to a restriction canceling position at which the latch

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17 is under a restriction canceling state that the latch can be taken out from the striker 45 (col.8, ln.1-26).

- The drive mechanism driving the lock canceling member 60 from the restricting position to the restriction canceling position in response to the first member being returned to the waiting position from the bring-in position (col.8, ln.1-26).
- The lock canceling member 60 being restricted to the restriction canceling position during a period that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-25), and after returning the first member to the waiting position, the lock canceling member 60 being movable from the restriction canceling position (fig.24) to the restricting position (fig.21) (col.8, ln.26-34).

As to claim 2, Shimada discloses:

A drive member further comprising:

- An output member 55.
- The output member 55 being operative to drive the lock canceling member 60 from the restricting position to the restriction canceling position at a time that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-26).
- And during a period that the first member is returned to the waiting position from the bring-in position (col.8, ln.1-26), the lock canceling member 60 is restricted at the restriction canceling position (fig.24), and after returning the first member to the waiting position (fig.24), the lock canceling member 60 can be moved from the restriction canceling position to the restricting position (fig.21).

As to claim 3, Shimada discloses:

The lock canceling member 60 comprises:

- A first cam.
- A second cam.
- A third cam.
- The output member 55 being relatively brought into slidable contact (through pin 56) with the first cam at a time that the first member is returned to the waiting position from the bring-in position, whereby the lock canceling member 60 is moved from the restricting position to the restriction canceling position (col.8, ln.1-15). This first cam is simply an extent on surface 63 that is first contacted during the opening function described (col.8, ln.1-15).
- And during the period that the first member is returned to the waiting position from the bring-in position, the output member 55 is relatively brought into slidable contact with the second cam, whereby the lock canceling member 60 is restricted at the restriction canceling position. The second cam is a second extent on the surface 63 that is contacted by pin 56. The lock canceling member 60 remains in abutting contact with lower end 18a of the locking plate 18, which is the restriction canceling position (corresponds to the locking plate 18 being unable to restrict the latch plate 17).
- And after returning the first member to the waiting position, the output member is relatively brought into slidable contact with the third cam, whereby the lock canceling member 60 can be moved from the restriction canceling position (fig.24) to the restricting position (fig.21). The third cam is a third extent on the surface 63 against

which the pin 56 is in slidable contact. The output member 55 only rotates in a single direction (counterclockwise) (col.4, ln.33-38). Therefore, from drawing stop position (fig.23) to restriction canceling position (fig.24), the pin 56 must contact surface 63 in a manner moving from the right side of 63 to the left side of 63, as the output member 55 continues its counterclockwise rotation from restriction canceling position (fig.24) to the initial position (fig.21). Any three portions of surface 63 can be a first, second, and third cam.

As to claim 4, Shimada discloses a power lid closing device wherein:

- The second member is provided with a locking plate 18 which can move to a restriction canceling position for placing the latch in a restriction canceling state (col.8, ln.1-16).

As to claim 5, Shimada discloses:

The output member comprises:

- A cam follower 56 bringing in the second member via the first member (col.7, ln.28-35).
- A cam follower 56 being relatively brought into slidable contact with a cam groove 41 formed in the first member.
- And the cam follower 56 is relatively brought into slidable contact with the first cam, second cam, and third cam in this order. The first, second, and third cams are extents along the length of surface 63 that are contacted in order as the cam follower 56 moves from right to left across surface 63, as the output member 55 completes a full counterclockwise rotation (from fig.23 to fig.21).

As to claim 6, Shimada discloses a power lid closing device wherein:

- The cam follower 56 moves along a circumference.
- The second cam is formed along the circumference at a time that the lock canceling member 60 is at the restriction canceling position.
- The first cam and the third cam are respectively connected to both sides of the second cam, and are formed so as to gradually move close to or apart from a center of the circumference respectively. The first, second, and third cams are extents along the length of surface 63 that are contacted in order as the cam follower 56 moves from right to left across surface 63, as the output member 55 completes a full counterclockwise rotation (fig.23 to fig.21). It is disclosed by Shimada (from fig.21 to fig.22) that the cams 63 are clearly moving close to a center 57 of the circumference defined by the path of the cam follower 56.

As to claim 7, Shimada discloses a power lid closing device wherein:

- The lock canceling member 60 is urged from the restriction canceling position to the restricting position by a coil spring 62. It is shown (fig.24) that the coil spring 62 is stressed when the lock canceling member 60 is moved into restriction canceling position.

Response to Arguments

Applicant's arguments filed 3/7/03 have been fully considered but they are not persuasive. Applicant argues (pg.6) that Shimada fails to disclose or suggest a support base fixed to an inner panel of the peripheral edge of the trunk opening, the lock canceling member being supported by a shaft in the support base as defined by amended claim 1. The examiner

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disagrees. Shimada does in fact disclose a base plate 20 secured to an inner panel of the trunk space 11 (col.4, ln.1-10). Furthermore, the striker base plate 40 (on which the lock canceling member 60 is mounted) is pivotally supported by means of pin/shaft 21 on the base plate 20. Therefore, the lock canceling member 60 of Shimada is in fact supported by the base plate 20 by way of intermediate member 40 (Fig.1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH
May 19, 2003

J. J. Swann
J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600